

### **REMARKS**

Claims 61-71 and 74-81 constitute the pending claims in the present application. Applicants cancel, without prejudice, claim 70. Applicants respectfully request reconsideration in view of the following remarks.

1. Applicants note with appreciation that the previously submitted formal drawings have been approved.
2. Applicants note with appreciation that the Examiner has provided a new copy of the IDS with all references initialed.
3. Applicants' amendment to the specification and submission of a revised sequence listing are believed to obviate any objections regarding compliance with the sequence rules.
4. Applicants respectfully disagree with the Examiner's assessment of the effective filing date of the claimed subject matter. Applicants contend that the pending claims are supported throughout Application Serial No. 08/319,745, filed October 7, 1994. Specifically, Applicants direct the Examiner's attention to, for example, page 13, line 29 – page 14, line 27. Applicants contend that the disclosure filed October 7, 1994 supports the presently claimed subject matter, and thus that the effective filing date of the pending claims is October 7, 1994.
5. Claims 61, 62, 71, and 81 are rejected under 35 U.S.C. 112, first paragraph, for allegedly failing to enable one of skill in the art to practice the claimed invention. Applicants traverse this rejection and contend that the rejection is moot in light of the amended claims.

Applicants contend that the specification is broadly enabling for a range of assay methods including, but not limited to, those that require contacting cells with a hedgehog protein to activate the hedgehog signaling pathway. Nevertheless, to expedite prosecution, Applicants have amended the claims to more particularly point out certain embodiments of the invention. Applicants' amendments are not in acquiescence to the rejection, and Applicants reserve the right to prosecute claims of similar or differing scope. Reconsideration and withdrawal of this rejection are respectfully requested.

6. Claims 61 and 70 are rejected under 35 U.S.C. 102(a) as allegedly being anticipated by Fan et al. Applicants traverse this rejection and contend that the rejection is moot in light of the amended claims.

Applicants contend that the teachings of Fan et al. are not available as prior art against the claimed subject matter. As outlined in detail in section 4 above, the effective filing date of the pending claims is October 7, 1994. This effective filing date is prior to the May 5, 1995 publication date of Fan et al. Given that Fan et al. was published after the effective filing date of the pending claims, Fan et al. is not available as prior art and cannot anticipate the claimed subject matter. Reconsideration and withdrawal of this rejection are respectfully requested.

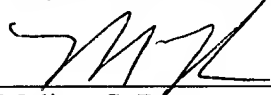
## CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that the pending claims are in condition for allowance. Early and favorable reconsideration is respectfully solicited. The Examiner may address any questions raised by this submission to the undersigned at 617-951-7000. Should an extension of time be required, Applicants hereby petition for same and request that the extension fee and any other fee required for timely consideration of this submission be charged to **Deposit Account No. 18-1945, under Order No. CIBT-P04-203.**

Date: September 30, 2004

**Customer No: 28120**  
Docketing Specialist  
Ropes & Gray  
One International Place  
Boston, MA 02110  
Phone: 617-951-7000  
Fax: 617-951-7050

Respectfully Submitted,



---

Melissa S. Rones  
Reg. No. 54,408